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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,171	08/10/2000	Joseph Coffey	2316.1223US01	6575
23552	7590	12/10/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			KIM, ELLEN E	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/636,171

**Applicant(s)**

COFFEY, JOSEPH

**Examiner**

Ellen Kim

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 63-80 is/are allowed.
- 6) ☒ Claim(s) 1-12, 18-26, 30-37, 39, 40 and 46-58 is/are rejected.
- 7) ☒ Claim(s) 13-17, 27-29, 38, 41-45, and 59-62 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to Applicant's amendment filed on 8/19/2004.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,6,11,12,18,19,21,22,24-26,30,32,33,37,39,40,51-54 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by EMC39-12 User's Guide, cited in IDS. The detail reasons for rejections are greatly discussed in previous Office action.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over EMC 39-12.

The detail reasons for rejections are greatly discussed in previous Office action.

Claims 9, 36, 50 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over EMC in view of "Omnitron Announces a complete line...." (Omnitron).

The detail reasons for rejections are greatly discussed in previous Office action.

Claims 10 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over EMC in view of ..5250 Copper/Fiber..." (Transition).

The detail reasons for rejections are greatly discussed in previous Office action.

### ***Response to Arguments***

Applicant's arguments filed 8/19/2004 have been fully considered but they are not persuasive. Applicant argues that the EMC reference does not show a single, user-selectable port pair to monitor, and EMC reference shows a single monitor that displays the status of all port pairs.

Examiner does not agree with Applicant's argument, because it is clear that any single port pair is selectable by user, and monitor checks the information concerning those port pairs. It is also clear that means electrically coupled to the input allow user-selection of a single port pair to monitor.

### ***Allowable Subject Matter***

10. Claim 13-17,27-29,38,41-45 and 59-62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form

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including all of the limitations of the base claim and any intervening claims. The detail reasons for allowance are greatly discussed in previous Office action.

Claims 63-80 are allowed.

### ***Conclusion***

In formation regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

For all official patent application related correspondence for organizations reporting to the Commissioner of Patents:

- Correspondence that is hand-carried (or delivered by other delivery services, e.g., FedEx, UPS, etc.) must be delivered to the Customer Window :

**220 20<sup>th</sup> Street S.**

**Crystal Plaza Two, Lobby, Room 1B03**

**Arlington, VA 22202**

- Correspondence that is transmitted by facsimile must be directed to the central facsimile number, (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen Kim whose telephone number is (571) 272-2349. The examiner can normally be reached on Monday through Thursday.

Ellen E. Kim  
Primary Examiner  
December 8, 2004/EK

